

1 UNITED STATES DISTRICT COURT
2 SOUTHERN DISTRICT OF NEW YORK

3 MENDEL STERN, et al.,

4 Plaintiffs,

5 v.

18 Civ. 4622 (NSR)

6 HIGHLAND LAKE HOMEOWNERS
7 ASSOCIATION, et al.,

8 Defendants.

Settlement

9 New York, N.Y.
10 August 14, 2018
5:15 p.m.

11 Before:

12 HON. KATHERINE POLK FAILLA,

13 District Judge

14 APPEARANCES

15 SUSSMAN & WATKINS
Attorneys for Plaintiffs

16 BY: MICHAEL H. SUSSMAN

17 MIRANDA SAMBURSKY SLONE SKLARIN VERVENIOTIS, LLP
Attorneys for Defendants

18 BY: RICHARD S. SKLARIN

19 FEERICK LYNCH MacCARTNEY & NUGENT, PLLC
Attorneys for Counterclaimants

20 BY: PATRICK A. KNOWLES

1 (Case called)

2 MR. SUSSMAN: Good day, your Honor, Michael Sussman,
3 Sussman & Associates, Goshen, New York, representing the
4 plaintiffs.

5 THE COURT: Sir, good afternoon to you. Thank you.

6 MR. SKLARIN: Richard Sklarin, Miranda Sambursky Slone
7 Verveniotis, 570 Taxter Road, suite 561, Elmsford, New York
8 10523, attorney for defendants. Good afternoon, your Honor.

9 THE COURT: Good afternoon.

10 MR. KNOWLES: Good afternoon, your Honor, Patrick
11 Knowles with Feerick Lynch MacCartney & Nugent on behalf of the
12 counterclaimant defendants.

13 THE COURT: Thank you.

14 Gentlemen, this case came to me in part I and it came
15 to me with an application for a temporary restraining order.

16 It is my understanding that after discussions with the
17 parties there is an accommodation or an agreement that the
18 parties have reached in the short term until there is a
19 preliminary injunction hearing before Judge Roman.

20 Let me tell you, Judge Roman is available on
21 Wednesday, the 29th at 10 a.m. and he has the block of time
22 from 10 to 11:30 available. If you need more than that, I will
23 let you deal with him.

24 Assuming that things have not changed since I went
25 into the robing room to confirm the date, may I ask any party

1 for a recitation of the agreement the parties have reached.

2 MR. SUSSMAN: Yes, your Honor. Michael Sussman
3 representing the plaintiffs.

4 It is my understanding that the parties have agreed
5 that the gate, which is the subject of this application, remain
6 open, in an open position, from 7 a.m. to 6 p.m. each and every
7 day of the week except Saturday, when the gate can be closed,
8 so to speak. That is the agreement of the parties.

9 With that agreement we are withdrawing our application
10 at this point for a TRO, which is essentially moot based on the
11 agreement between the parties, and we will proceed to the
12 preliminary injunction hearing and make our broader arguments
13 at that time. This is without prejudice to either party's
14 merits arguments of any sort. It simply, as the Court
15 indicated, an accommodation to allow us to proceed with some
16 amicability between now and then.

17 THE COURT: I thank you for explaining to me.

18 Gentlemen, at the back table, do you agree with the
19 recitation that's been given to me by Mr. Sussman?

20 MR. SKLARIN: Yes, your Honor.

21 MR. KNOWLES: Yes, your Honor.

22 THE COURT: Is it your wish that I keep these papers
23 and transmit them up to Judge Roman on my own? Are you OK if I
24 do that?

25 MR. SUSSMAN: Yes, your Honor.

1 MR. SKLARIN: That's OK, your Honor.

2 One question. For purposes of opposition papers
3 before the 29th, I don't know if we have any guidance as far as
4 that.

5 THE COURT: Could you get them in next Wednesday,
6 which would be one week prior to the hearing, and then if
7 Mr. Sussman wanted to reply, he could file something -- sir,
8 could you do it by Friday or by Monday of the following week?

9 MR. SUSSMAN: I think Monday would be more realistic.

10 THE COURT: Although be gentle to Judge Roman because
11 he will be getting these just two days before the hearing.
12 Let's imagine, please that your brief would be due on the 22nd
13 and the reply brief would be on the 27th.

14 MR. SUSSMAN: Thank you, judge.

15 THE COURT: Thank you very much.

16 Anything else we should be addressing today?

17 MR. KNOWLES: No. Thank you very much for your time,
18 your Honor.

19 THE COURT: Thank you. I know you've had to wait a
20 while and I appreciate your patience as you did it. Thank you
21 and get home safely in this weather.

22 We are adjourned.

23 (Adjourned)
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